

This Instrument Prepared By
and When Recorded Return To:
Arkansas Development Finance Authority
Attn: Office of the General Counsel
P.O. Box 8023
Little Rock, Arkansas 72203-8023

MORTGAGE
ARKANSAS DEVELOPMENT FINANCE AUTHORITY
SECTION 1602 EXCHANGE PROGRAM

KNOW ALL MEN BY THESE PRESENTS:

That _____ (hereinafter called "Mortgagor"), for valuable consideration, hereby grants, bargains, sells, conveys and delivers unto Arkansas Development Finance Authority (hereinafter called "Mortgagee"), and unto its successors and assigns, the real property (the "Property" or the "Project") situated in _____ County, Arkansas, as more particularly described on the attached **Exhibit A**.

This Mortgage also conveys all buildings and improvements now or at any time hereafter located on any land herein above described, together with all of the following equipment now or at any time hereafter located in such building regardless of method or annexation or removability including, but not limited to: all electrical equipment (including lighting equipment, refrigeration equipment, ceiling fans, attic and window fans, motors and all other electrical paraphernalia) except items attached merely by plugging in wall sockets; all furnaces (including floor furnaces), heaters, radiators and all other heating equipment except small gas stoves on floor; all bath tubs, toilets, sinks, basins, pipes and other plumbing equipment; all screens, awnings, and window shades; all linoleum and other permanent floor coverings; all engines and elevators.

TO HAVE AND TO HOLD the same unto the Mortgagee, its successors and assigns forever.

And Mortgagor covenants with Mortgagee, its successors and assigns that Mortgagor will forever warrant and defend the title to all the Property against all lawful claims whatever.

PROVIDED, however, the foregoing conveyance is given as a Mortgage for the purpose of securing the following:

(a) The payment of a demand promissory note (the "Note"), with an effective date of _____, 2009 evidencing a principal indebtedness (which indebtedness, and all extensions and renewals thereof is hereinafter called the "Primary Indebtedness") of

_____ Dollars (\$_____) which shall be payable upon demand as set forth in the Note.

(b) The payment of all future and additional indebtedness, direct or indirect, created after the date of this Mortgage, which may be owing by Mortgagor (or by any of the persons herein designated under the term "Mortgagor" to the holder of the Primary Indebtedness at any time prior to the payment in full of the Primary Indebtedness) or the foreclosure of this Mortgage therefore (the event occurring first to be controlling); such additional indebtedness to be secured hereby regardless of whether it shall be predicated upon future loans or advances hereafter made by the holder(s) of the Primary Indebtedness, or obligations hereafter acquired by such holder(s) through assignment or subrogation or otherwise, or shall represent indirect obligations (created after the date of this Mortgage) based upon any endorsements, guaranties or suretyship AND IT IS AGREED THAT THIS MORTGAGE SHALL STAND AS SECURITY FOR ALL SUCH FUTURE AND ADDITIONAL INDEBTEDNESS WHETHER IT BE INCURRED FOR ANY BUSINESS PURPOSE THAT WAS RELATED OR WHOLLY UNRELATED TO THE PURPOSE OF THE ORIGINAL NOTE, OR WHETHER IT WAS INCURRED FOR SOME PERSONAL OR NON-BUSINESS PURPOSE, OR FOR ANY OTHER PURPOSE RELATED OR UNRELATED, OR SIMILAR OR DISSIMILAR, TO THE PURPOSE OF THE ORIGINAL NOTE. THIS IS A FULL RECOURSE NOTE; and

(c) The repayment to the holder(s) of the indebtedness secured hereby of all reimbursable expense at any time accruing to such holder(s) under the provisions of Paragraph (3) hereof.

Upon compliance with all Exchange Program requirements as set forth in the Exchange Agreement executed on _____, 2009, this Mortgage will become void and will be released by a proper marginal notation or, at the option of the holder(s) of the secured debt, by a partial release deed, subject to the gross rent and eviction and termination requirements pursuant to 26 U.S.C. Section 42(h)(6)(E)(ii), to be recorded at the expense of Mortgagor.

1. Covenants of Mortgagor. Mortgagor agrees to the following:

- (a) to pay, prior to delinquency, all taxes, special improvement assessments and other governmental charges against the Property, both real and personal, at any time levied or becoming due;
- (b) to carry insurance upon all insurable property encumbered hereby against such hazards, in such amounts and under such form of policies, as shall be acceptable to, or requested by, the holder(s) of the indebtedness secured hereby; each insurance policy to carry mortgage clause in favor of such holder(s) upon such form as may be approved by the holder(s), and each policy to be delivered to and held by such holder(s). In each instance, Mortgagor shall have the right to select the insurer, subject to Mortgagee's right to reject the proposed insurer for reasonable cause;

- (c) to prevent the Property from becoming encumbered by any lien or charge having priority over, or on a parity with, the lien of this Mortgage, unless a written subordination agreement has been executed by Mortgagor, and to comply with all statutes, ordinances and regulations relating to such property;
- (d) to protect the Property from waste, injury or unusual deterioration and, without subjecting the Property to any statutory lien, to make all replacements and repairs necessary to keep the Property in good physical condition. In that connection, it is agreed that Mortgagor may not cut the timber from any land encumbered hereby; moreover, Mortgagor may not remove or substantially remodel or alter any structure on the Property without prior written consent of the holder(s) of the secured indebtedness;
- (e) to comply with all provisions of 26 U.S.C. Section 42, regulations promulgated thereunder, the American Recovery and Reinvestment Act, the American Recovery and Reinvestment Tax Act, and all related guidance issued by the United States Department of Treasury, the Internal Revenue Service and Mortgagee;
- (f) to comply with all provisions set forth in the Exchange Agreement executed between Mortgagee and Mortgagor dated _____, 2009;
- (g) to file a Land Use Restriction Agreement, approved and executed by Mortgagee, contemporaneously herewith;

2. Title to Property and Lien. Owner is the lawful owner and is now lawfully seized and possessed of a good and indefeasible title and estate in fee simple to the Property, free and clear of all liens, charges or encumbrances whatever, including liens of general and special taxes and assessments, excepting taxes for the current year which are not yet due, the permitted encumbrances listed on **Exhibit B** attached hereto, and the lien of this Mortgage. Owner further represents that it will forever warrant and defend the title to the Property and every part thereof unto Mortgagee, its successors and assigns against the claims and demands of all persons whomsoever.

3. Mechanic's Liens. Except as set forth on **Exhibit B**, the lien of this Mortgage shall have priority, at all times, over any and all mechanic's and materialmen's liens. No contract for labor or material will be let by Owner except with the express stipulation that the mechanic's and materialmen's liens therefore shall at all times be subordinate to the lien of this Mortgage which constitutes an encumbrance given for the purpose of funding construction or rehabilitation under ARK. CODE ANN. § 18-44-110(b)(1)(B).

- 4. Default.** The holder(s) of the Primary Indebtedness or any future or additional indebtedness secured hereby (whether such indebtedness then be evidenced by the original note(s) or by any instrument(s) given in renewal or extension of such indebtedness) may, at the option of such holder(s), declare the entire indebtedness secured hereby, together with all default interest accrued on the entire secured debt, to be immediately due and payable, and the same shall forthwith become immediately due and payable, in any one of the following events (“default events”):
- (a) Upon the filing of a voluntary or involuntary petition to subject Mortgagor (or any party obligated as maker, endorser, surety or guarantor for the payment of the secured indebtedness) to any bankruptcy, debt-adjustment, receivership or other insolvency proceeding.
 - (b) Upon the occurrence of any event, which, under the terms of the instrument at any time evidencing the indebtedness secured hereby, warrants demand (at the option of the holder) of said indebtedness.
 - (c) If Mortgagor shall fail to comply with any of the agreements contained in this Mortgage or the Exchange Agreement.
 - (d) If Mortgagor, being a partnership or a corporation, shall be dissolved or reorganized in any manner.
 - (e) If at any time it shall appear that title to the Property, or any portion thereof, is subject to any prior lien, title or interest not mentioned in this Mortgage as a prior encumbrance.
 - (f) If at any time Mortgagor shall sell or convey the title to or any interest in any realty mortgaged hereunder without the prior written consent of the holder(s) of the secured indebtedness.
 - (g) If at any time it should appear that the Mortgagor has attempted to sell free from the lien of this Mortgage any personal property or removable fixture encumbered hereby, or is about to attempt such a sale; or that any personal property or removable fixture encumbered hereby has been, or is about to be moved to a different jurisdiction, subjected to physical damage or unusual deterioration, seized under legal process, or subjected by the Mortgagor or a third party to any other disposition which in the opinion of the holder(s) of the secured indebtedness will impair the security value of this instrument.
 - (h) If at any time it should appear that the Mortgagor’s financial statements given to and relied upon by the Mortgagee incorrectly or inaccurately set forth the financial condition of the Mortgagor.

- (i) If Mortgagor breaches the Exchange Agreement between Mortgagor and Mortgagee.
- (j) If the Department of Treasury or any other federal department or agency finds Mortgagor to be subject to recapture for the development identified herein, whether or not a finding of breach has been made in a judicial or administrative proceeding.
- (k) If the Mortgagor must pay any sums, arising from the funding of the development identified herein, to the Department of Treasury or any other federal department or agency.

It is particularly understood that the foregoing demand provisions will be applicable not only to the maturities recited in the original mortgage note(s) but also to any substituted maturities created by extension or renewal. The failure of the holder(s) of the secured indebtedness to make demand when a ground therefore exists, even though such forbearance may be repeated from time to time, will not constitute a waiver of the right of such holder(s) to demand payment upon a reoccurrence of the same ground therefore, nor will the act of such holder(s) in remedying any condition resulting from Mortgagor's default bar the holder(s) from demanding payment by reason of such default.

5. Remedies Upon Default. Upon occurrence of a default event under Section 2, the holder(s) of the indebtedness secured hereby shall be entitled to any of the following remedies:

- (a) Pursuit of any and all remedies provided by judicial proceedings and non-judicial remedies, including self-help repossession;
- (b) Foreclosure of this Mortgage in compliance with Act 53, "The Statutory Foreclosure Act of 1987" by public sale to the highest bidder for cash, on the premises or at the main door of the Courthouse of _____ County, public notice of the time, terms and place of said sale having been given for thirty (30) days by publication in some newspaper, published in _____ County, once a week for four (4) consecutive weeks prior to the date of sale, the final publication to be no more than seven (7) days prior to the sale, which advertisement shall be sufficient for the purpose of foreclosure. THE OWNER OF THE NOTE SECURED HEREBY MAY BECOME A PURCHASER AT SUCH SALE. No bid shall be accepted that is less than two-thirds (2/3) of the entire indebtedness due at the date of the sale. Notice required under Act 53 of 1987 will be directed to the Mortgagor at the following address supplied by Mortgagor, to wit:

Election of either (a) or (b) by Mortgagor is not irrevocable and Mortgagee may at any time subsequent to commencement of the proceedings terminate such proceeding and proceed with any other remedy.

- (c) The holder(s) of the indebtedness secured hereby may require the Mortgagor to assemble (at Mortgagor's expense) any or all of the personal property encumbered hereby and make it available to such holder(s) at a place specified by such holder(s) which is reasonably convenient to both parties; and such holder(s) may enforce all of its or their remedies, in respect to the encumbered personal property, that may be available under the Uniform Commercial Code. In the last event all expenses of retaking, holding, preparing for sale, selling or the like, as well as all reasonable attorney's fees (not exceeding 10% of the secured indebtedness plus accrued default interest) and lawful expenses incurred by said holder(s) in enforcing such remedies shall be payable to said holder(s) by Mortgagor shall constitute a part of the secured indebtedness.
- (d) Such holder(s) may enforce the lien of this Mortgage in respect to any or all real and personal property encumbered hereby:
 - (i) either separately or in bulk, in such order as Mortgagee, in its sole discretion, shall direct, including at any judicial or non-judicial sale; and
 - (ii) by proceedings that are prosecuted simultaneously or are prosecuted separately in such order as the holder(s) may elect.

6. Mortgagor Expenditures. If the holder(s) of the indebtedness secured hereby shall expend any sum or sums for the protection of any of the Property or the lien of this Mortgage (such holder(s) to have uncontrolled discretion as to the necessity of making any such expenditures), the repayment of such sum or sums on demand (with interest thereon at the maximum legal rate from the date of each expenditure) shall be the personal obligation of Mortgagor; and such obligation to repay will constitute a part of the indebtedness secured hereby. The expenditures thus made reimbursable include but are not limited to taxes, special improvement assessments, insurance premiums, repairs and maintenance expenses, sums paid to discharge prior liens, rents on premises in which mortgaged personality may be situated, etc. The cost of any abstract, title commitment, or appraisal procured by the holder(s) of the secured indebtedness to facilitate foreclosure will also constitute a part of the reimbursable expense secured hereby.

7. Relinquishment of Mortgagor's Rights. Mortgagor releases all rights of dower, courtesy, homestead and appraisement hereunder and also releases unto Mortgagor all right of redemption under the laws of Arkansas, including

particularly all right of redemption under Act No. 53 of May 8, 1989, and amendments thereto currently codified as ARK. CODE ANN. § 18-49-106.

EXECUTED on this _____ day of _____, 2009.

MORTGAGOR:

By: _____
Its: General Partner

By: _____
Its: _____
Date: _____

ACKNOWLEDGEMENT

STATE OF ARKANSAS

COUNTY OF _____

BEFORE ME, the undersigned Notary Public, on this day personally appeared _____, _____ of _____, General Partner of _____ Limited Partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same of the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2009.

Notary Public

My commission expires:

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
PERMITTED ENCUMBRANCES